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STATE FOR EB/TPP/IPE AND WHA/CAR
STATE PASS USTR FOR TANUJA GARDE, VIONDETTE LOPEZ

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TAGS: [ETRD](#) [KIPR](#) [TD](#) [XL](#)
SUBJECT: TRINIDAD'S CABLE TV PIRACY DISPUTE HEATS UP

REF: A) 04 POS 1895 B) 06 POS 568

SENSITIVE BUT UNCLASSIFIED - HANDLE ACCORDINGLY

11. SUMMARY: (SBU) In the latest skirmish in the long-standing Trinidad and Tobago cable TV piracy wars, HBO-Latin America launched a media blitz May 9 accusing Trinidad's cable provider Flow of ongoing cable piracy and failing to negotiate in good faith to purchase cable feeds legally. Flow responded by insisting that active negotiations are underway and calling HBO's accusations a bargaining ploy. Officials from the Telecommunications Authority of Trinidad and Tobago (TATT) charged with managing the negotiations claim that the dispute should be resolved to the satisfaction of both parties by July 1. TATT contacts also reported that the GOTT Cabinet has rejected the idea of compulsory licensing. However, Ministry of Legal Affairs contacts expressed skepticism whether the TATT can effect change in the current situation. Signs are mixed whether cable piracy in Trinidad will end any time soon. END SUMMARY.

The Same TV Piracy Story

12. (U) Although cable piracy has been an issue in T&T since the 1990s, U.S. company HBO-Latin America did not start negotiations with then cable provider Cable Company of Trinidad and Tobago (CCTT) until 2004 (ref A). HBO-LA, a joint venture among Time Warner, Sony Columbia Pictures and Disney, holds the exclusive rights in Latin America, the Caribbean and Brazil to show the premium channels HBO and Cinemax and the basic channels E!, A&E, the History Channel, Biography, Warner TV and Sony TV. Since 2004, Barbados-based Columbus Communications, the regional media company created by AIC Chairman Michael Lee-Chin, acquired CCTT, but negotiations between the new cable TV entity Flow and HBO-LA about ending cable piracy continued to stall (ref B).

Battle in the Press 2007: HBO-LA vs. Flow

13. (SBU) In the current round of negotiations, which kicked off in December 2006 in Miami with TATT attending on the sidelines, HBO-LA presented Flow with a proposal in February to carry HBO Caribe, a new product for the English-speaking Caribbean. At the end of April, Flow announced to its subscribers that premium movie channels currently offered in the basic cable package, including HBO and Cinemax, would soon be available only for an extra fee. Flow spokespersons indicated in press interviews that Flow was negotiating pricing for the premium channels but could not say when negotiations would conclude.

14. (SBU) In response to these statements, HBO-LA Senior Director for Legal Affairs Rainer Lorenzo and Vice President for Public Relations Miguel Oliva traveled to Port of Spain May 9 for a press briefing, in which they denounced Flow for broadcasting HBO and Cinemax illegally and insisted that Flow is not negotiating in good faith with HBO-LA. Meeting with Econoffs prior to their press briefing, the HBO-LA reps said that while Flow had repeatedly listened to their proposals, Flow had never yet responded. They also voiced frustration with TATT and to a lesser extent the Ministry of Legal Affairs. Lorenzo noted that in a 2006 meeting with Minister of Legal Affairs Christine Kangaloo, she recommended taking the matter to court, an option Lorenzo said he hopes to avoid. Nevertheless, in addition to organizing the press briefing to tell their side of the story, Lorenzo said HBO-LA also decided to hire respected opposition Member of Parliament Gillian Lucky, who continues to practice law, as additional legal counsel.

15. (SBU) HBO-LA's public accusations, which were widely carried in local press, sparked public anger, infuriated Flow and dismayed TATT. Local newspapers carried letters to the editor complaining that Flow was charging them for a stolen service. Meanwhile, Flow President John Reid sought to refute HBO's claims in a press interview of his own, declaring that Flow was in active negotiations with HBO-LA and saying "I think we will pay for that service when it reflects the interest of our consumers." In media reports and to Econoff, TATT officials expressed confusion as they believed negotiations between Flow and HBO-LA were progressing smoothly and that changes were to be in place by July 1. Acting Executive Director Chris Seecheran explained that TATT was meeting regularly with Flow to "regularize" all content in accordance with T&T's Broadcast Code so that standard programming did not include explicit material.

What Happens Next?

16. (SBU) Steven Bereaux, the TATT lawyer responsible for monitoring HBO-LA's negotiations with Flow, suggested to Econoff on May 22 that HBO-LA's offensive was ill-timed, relaying "in confidence" that Flow had been "prepared to accept the proposal," but questioning whether this was still the case following HBO-LA's May 9 press conference. He also offered no comment on what TATT would do if Flow and HBO-LA did not come to an agreement. Even though a 2007 Cabinet directive instructed TATT to manage negotiations between Flow and HBO-LA, Bereaux told Econoff he did not believe that TATT was responsible for protecting intellectual property and even questioned whether protecting IP was consistent with TATT's mandate to give customers the best possible service. On a positive note, Bereaux and Seecheran reported that the same 2007 Cabinet directive had rejected compulsory licensing of cable TV signals. Flow is scheduled to present their plans, including the state of negotiations with HBO-LA, to TATT on June 5.

17. (SBU) Mazina Kadir, head of the Intellectual Property Office in the Ministry of Legal Affairs, told Econoff she was skeptical that TATT had the ability or political will to prevail upon Flow to conclude negotiations. While her colleagues recommended that HBO-LA take the matter to court, Kadir questioned whether local courts would rule strictly on the legal issues, without regard to political implications, especially in this election year.

18. (SBU) COMMENT: For the first time, HBO-LA is entering the media fray to stop Flow from pirating their signals instead of relying on DirecTV, Flow's main rival, to press its case on the ground in Trinidad. HBO-LA's new activism may finally elicit a response from Flow or TATT. However, TATT has done little to manage the situation to date and may be even less willing to risk incurring the wrath of cable TV viewers and politically influential Flow shareholders during this election year. Post will continue to monitor the dispute. END COMMENT.

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